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Via E-mail

Judge William Alsup
United States District Court
Northern District of California
450 Golden Gate Avenue, Courtroom 12
19th Floor
San Francisco, CA 94102

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RECEIVED
APR 16 2019
SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTH DISTRICT OF CALIFORNIA

Re: Confidentiality of the Monitor's Reports

Dear Judge Alsup:

The Federal Monitor respectfully submits this letter to address the Court's statements in court on April 2, 2019 regarding the confidentiality of the interim Federal Monitor reports. The Federal Monitor does not believe it is appropriate to remove the confidential treatment of the Monitor's interim reports. The original Judgment and Commitment Order ("J&C") in this case issued by Judge Henderson ordered that interim reports by the Federal Monitor be submitted only to the Probation Officer, the United States Attorney's Office, to PG&E and to PG&E's Board of Directors. (Dkt. 922 at 13.) The J&C stated that at the conclusion of the Monitor's work, the Monitor shall prepare a separate, final written report for public release. (*Id.* at 14.) The J&C further noted that in that final public report, the Monitor may take whatever steps the Monitor deemed appropriate to protect the confidentiality of individuals. (*Id.*)

This understanding has guided the Monitor's work and interactions with PG&E and its employees. Accordingly, the Monitor has represented to employees and contractors with whom his team speaks at PG&E that the interim reports and conversations with employees and others are confidential, and that only a final report would be made public. Such representations have fostered candid and open dialogue between the Monitor team and employees of PG&E. The Monitor team does not want to go back on its representations and risk losing or undermining the trust and confidence of individuals who otherwise have felt empowered and willing to engage frankly with the Monitor team. That trust and candor are critical to the work completed thus far and the ongoing progress of the Monitor's work.


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Additionally, and equally important, the Monitor fears that public dissemination of its interim reports will chill the exchange of information between PG&E employees and the Monitor team. If employees of PG&E believed that what they tell the Monitor would be made public, employees and potential whistleblowers would be less inclined to come forward with relevant information that forms the basis of the Monitor's work and of change at PG&E. To take just one example, the Monitor team maintains a hotline through which employees and whistleblowers can raise concerns related to issues, including potential safety matters. The Monitor wants to promote continued use of the hotline, general reaching out to the Monitor by PG&E employees, and related inquiries into matters raised without concern by the employees that they could be subject to public questioning, retaliation, or identification.

The Federal Monitor additionally submits this letter to inform the Court that it has spoken to non-party plaintiffs' attorneys Dario de Ghetaldi, Steve Campora, and Frank Pitre regarding Mr. de Ghetaldi's request in his brief in response to this Court's second order to show cause (Dkt. #1035) to make the confidential interim reports of the Federal Monitor public. The Monitor asked that Mr. de Ghetaldi withdraw his request due to the unintended consequences public dissemination of the Monitor's interim reports could have on the Monitor's progress to date and work moving forward. At this time, the non-party plaintiffs' attorneys have agreed not to seek publication of the confidential interim Monitor reports.

Sincerely,


Mark Filip, P.C.
Federal Monitor

cc: Hallie Hoffman, United States Attorney's Office, Northern District of California
Jennifer Hutchings, United States Probation Office, Northern District of California
Reid J. Schar, Jenner & Block, Counsel for PG&E